

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

BUNZL DISTRIBUTION MIDCENTRAL, INC.

Employer

and

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL UNION 179**

Petitioner

Case 13-RC-152029

DECISION AND DIRECTION OF ELECTION

Petitioner seeks to represent a unit of all full-time and regular part-time Warehouse Selecting and Receiving employees employed by the Employer at its Romeoville, Illinois facility; but, excluding drivers, managerial employees, office clerical employees and guards, professional employees and supervisors as defined in the National Labor Relations Act (“Act”).¹ The Employer does not take issue with the appropriateness of the petitioned-for unit, however contends that the National Labor Relations Board’s Final Rules for Representation Cases, which became effective April 14, 2015 (“New R Case Rules”) are invalid.

In support of its position, the Employer maintains that, the New R Case Rules (1) violate the First Amendment to the United States Constitution by compelling speech in the requirement that employers post a notice of the petition; (2) fail to meet the requirements of the Administrative Procedures Act (“APA”); (3) are arbitrary and capricious in violation of the APA; (4) violate the APA by the National Labor Relations Board (“Board”) not considering offsetting costs to the New R Case Rules; (5) require mandatory disclosure of employees’ personal information which disregard substantial privacy concerns and place an unreasonable burden on employers to produce expanded employee information in a short timeframe; (6) violate Sections 3(b) and 9(b) and (c) of the Act by deferring voter eligibility issues until after an election; (7) violate Section 8(c) of the Act by inhibiting robust debate in labor disputes; and (9) impermissibly transform all elections into the expedited elections called for by Section 8(b)(7)(C) of the Act.

Prior to taking evidence regarding the Employer’s contentions, the Employer submitted an offer of proof² regarding the evidence it intended to present in support of its contention. Pursuant to my instructions following the Employer’s offer of proof, the Hearing Officer did not allow the Employer to present its evidence. I hereby affirm the refusal to allow evidence.

¹ The parties stipulated that the unit is appropriate.

² The Employer’s offer of proof was comprised of an oral argument in support of its position.

The Employer's challenges to the validity of the New R Case Rules do not raise a question concerning representation.

Because I conclude, in agreement with the parties, that the stipulated unit is appropriate for collective bargaining and that a question of representation exists under Section 9(c) of the Act, I am directing an election in this matter in the agreed-upon unit. The unit is comprised of approximately 51 employees.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the Board. Upon the entire record in this proceeding, I find:

1. The rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.
4. The Petitioner claims to represent certain employees of the Employer however the Employer declines to recognize the Petitioner.
5. There is no contract or other bar in existence which would preclude the processing of this petition.
6. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

Accordingly, consistent with Sections 102.64 and 102.66(d) of the Board's Rules and Regulations, I direct an election in the following unit of employees:

INCLUDED: All full-time and regular part-time Warehouse Selecting and Receiving employees employed by the Employer at its facility currently located at 905 Crossroads Parkway, Romeoville, Illinois.

EXCLUDED: All drivers, managerial employees, office clerical employees and guards, professional employees and supervisors as defined in the Act.

³ In conducting its operations during the past calendar year, a representative period of time, the Employer purchased and received goods, products, and materials valued in excess of \$50,000 directly from points located outside the State of Illinois.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Brotherhood of Teamsters Local Union 179.

A. Election Details

The election will be held on **Thursday, June 4, 2015** from **12:00 p.m. to 4:00 p.m.** in the **Lunchroom** of the Employer's facility located **905 West Crossroads Parkway, Romeoville, Illinois.**⁴

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **May 15, 2015**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **May 29, 2015.**⁵ The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

⁴ The parties stipulated to the election details.

⁵ The Petitioner waived its right to a full 10-day review period of the voter list.

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting, and likewise shall be estopped from objecting to the non-distribution of notices if it is responsible for the non-distribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it

did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1099 14th Street NW, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Chicago, Illinois this 27th day of May 2015.

/s/ Peter Sung Ohr

Peter Sung Ohr
Regional Director
National Labor Relations Board
Region 13
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Chicago, Illinois 60604-1443